

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael Miskovski	Team: Squad #3	CCRB Case #: 202003950	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 06/01/2020 8:00 PM	Location of Incident: 7 West 29th Street Parking Lot	Precinct: 14	18 Mo. SOL 12/1/2021	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 06/04/2020 4:27 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 06/04/2020 4:27 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. COP Fausto Pichardo	00000	923460	P S B

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Steven Gansrow	00301	928345	SRG 4
2. POM Mikel Strauch	03127	940775	SRG 4
3. POM Christophe Boria	26858	953693	SRG 4
4. DC John Dadamo	00000	913627	SRG
5. POM Vincent Ciccolella	20819	958409	SRG 4
6. POM Luis Diaz	08006	926766	SRG 4
7. CPT Ronald Ramos	00000	935562	SRG 4

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Discourtesy: Officers spoke discourteously to § 87(2)(b)	
B. Officers	Discourtesy: Officers spoke discourteously to § 87(2)(b)	
C. Officers	Discourtesy: Officers spoke discourteously to individuals.	
D. COP Fausto Pichardo	Discourtesy: Chief Fausto Pichardo spoke discourteously to individuals.	
E. Officers	Force: Officers struck § 87(2)(b) with a baton.	
F. Officers	Force: Officers struck § 87(2)(b) with a baton.	
G. Officers	Force: Officers struck individuals with a baton.	
H. COP Fausto Pichardo	Force: Chief Fausto Pichardo struck individuals with a baton.	

Case Summary

On June 4, 2020, § 87(2)(b) § 87(2)(b) filed this complaint on behalf of herself, her friend § 87(2)(b) and other unidentified individuals via the CCRB website.

On June 1, 2020, § 87(2)(b) and § 87(2)(b) attended a protest against police brutality in Manhattan that marched along Broadway until it turned onto West 29th Street at approximately 8:00 p.m. The group of approximately fifty to one hundred protestors then stood in front of a parking lot located at 7 West 29th Street in Manhattan. A large group of approximately twenty to fifty officers from Mobile Field Force, a group comprised of over 90 different commands, including Strategic Response Group 4 (SRG 4), formed a line in front of the parking lot to block access. After several minutes of waiting, Chief Fausto Pichardo of the Patrol Services Bureau instructed an unidentified Inspector to give the order to “clear” the street of protestors, who then did so. The unidentified officers then allegedly told the group of civilians, “Move, move! You’ve got to fucking move! Get the fuck out of here!” (**Allegations A-C: Word,** § 87(2)(g) **Allegation D: Word,** § 87(2)(g) The group of unidentified officers then allegedly began to shove people in the back with their batons, including § 87(2)(b) and § 87(2)(b) in an attempt to move them toward Broadway and out of West 29th Street (**Allegations E-G: Force,** § 87(2)(g) **Allegation H: Force,** § 87(2)(g) Once the group of protestors reached Broadway, the officers retreated, and the protestors dispersed, with § 87(2)(b) and § 87(2)(b) leaving for their home. No arrests were made nor summonses issued.

The investigation received 50 body-worn camera (BWC) videos for this case (**BR 01**). The majority of the videos were irrelevant to the complaint. Footage from Police Officer Damian Thomas (**BR 02**), Police Officer Brenda Olivierre (**BR 03**), Police Officer Mikel Strauch (**BR 04**), Police Officer Joel Mottola (**BR 05**), Police Officer Vincent Cicoella (**BR 06**), Police Officer Hector Torres (**BR 07**), and Police Officer Luis Diaz (**BR 08**), all of SRG-4, was at least partially relevant to the investigation of the allegations. § 87(2)(b) provided two cell phone videos to the investigation that did not show the allegations (**BR 09-10**).

Due to the chaotic nature of the event and since none of the alleged victims were arrested nor known by § 87(2)(b) nor § 87(2)(b) the investigation was unable to identify them.

Chief Pichardo has since retired from the NYPD (**BR 21**).

Findings and Recommendations

Allegation (A) Discourtesy: Officers spoke discourteously to § 87(2)(b)
Allegation (B) Discourtesy: Officers spoke discourteously to § 87(2)(b)
Allegation (C) Discourtesy: Officers spoke discourteously to individuals.
Allegation (D) Discourtesy: Chief Fausto Pichardo issued an order to officers that resulted in officers speaking discourteously to individuals.
Allegation (E) Force: Officers struck § 87(2)(b) with a baton.
Allegation (F) Force: Officers struck § 87(2)(b) § 87(2)(b) with a baton.
Allegation (G) Force: Officers struck individuals with a baton.
Allegation (H) Chief Fausto Pichardo issued an order to officers that resulted in officers striking individuals with a baton.

In her statement to the CCRB, § 87(2)(b) stated that she joined a group of marching protestors from Union Square and marched along Broadway while chanting

slogans, though she could not remember what words were said but noting that they were not violent (BR 11). She did not know these protestors, but she saw them forming in the park and invited her friend § 87(2)(b). Once the group of protestors reached West 29th Street, they encountered a line of officers with bicycles along the northern side of the intersection, so they turned onto West 29th and ultimately stopped in front of the parking lot located at 7 West 29th Street. She, § 87(2)(b) and approximately 15-20 other protestors stood in the middle of the street and did not know what was taking place. A line of approximately 20 officers in uniform and riot gear stood as a barrier to the parking lot itself. § 87(2)(b) noted that the protestors stood in silence for approximately five minutes, while one female protestor yelled at the police. A small contingent of officers left eastward toward Fifth Avenue, but § 87(2)(b) did not know why. A minute after those officers left, the remaining officers quickly marched toward the protestors and shouted, “Move! Move! You’ve got to fucking move,” and “Get the fuck out of here.” § 87(2)(b) and the other protestors quickly turned and started to run to Broadway. § 87(2)(b) had her back to the officers, but felt a baton shoved across her back four times. She did not feel like the baton was swung like a bat but used to push her. As she was being pushed, she turned to § 87(2)(b) and saw an officer push him in the back with the baton in likewise fashion. She saw a different officer swing a baton at § 87(2)(b) legs, almost hitting him with it. She also saw four to five officers shoving other protestors with batons as well. Once the group reached Broadway, the officers retreated back to the parking lot area, and § 87(2)(b) and § 87(2)(b) went home. § 87(2)(b) described the officers as “in riot gear” with batons. She did not remember anything specifically about any specific officers’ looks (BR 11).

In his statement to the CCRB, § 87(2)(b) stated that he and § 87(2)(b) left the latter’s apartment at Union Square to go to the pharmacy when they saw protestors in Union Square and decided to join them (BR 12). § 87(2)(b) was consistent with § 87(2)(b) in describing the route of the protest and estimated that there were about fifty protestors in the street in front of the parking lot. He also estimated that approximately 12 officers stood in a line in front of the parking lot. After several minutes of standing around, the line of officers marched to the protestors and said, “Move! Get the fuck out of here!” § 87(2)(b) raised his hands, turned to Broadway, and began to walk. An officer commanded again from behind him, “Get the fuck out of here,” and § 87(2)(b) felt a baton pressed against the middle of his back push him, causing him to stumble forward. He walked quickly to Broadway and did not see or pay attention to any of the other protestors or officers. Once he reached Broadway, he and § 87(2)(b) returned to Union Square and went home. § 87(2)(b) recalled two white, male officers in white shirts. He also described one of the officers saying discourtesies as a white male standing approximately 5’11” tall, in his mid-30s and in a blue uniform. He did not remember anything about the other officers in the line (BR 12).

Searches of social media did not yield any results of extra footage nor witnesses (BR 66). A search of CTS for concurrent cases or cases near or at the same area returned negative results as well (BR 67). § 87(2)(g)

Cell phone videos provided by § 87(2)(b) show the moments when the protestors stand around in the street prior to the incident under investigation (BR 09-10). The first video, located in IA#8, shows several officers in green bicycle vests stand in a line, blocking West 29th Street, telling the protestors to, “Please go around,” (BR 09). The second video, located in IA#9, shows a line of uniformed officers in front of the parking lot. At 00:11, two officers in white shirts jog toward the line from the direction of 5th Avenue, while one shouts “Chief, chief!” and runs up to the officer identified by the investigation as Chief Pichardo (BR 10). There are at least eight officers shown to be in white shirts pacing around the officers. At 00:31, a contingent of officers from SRG-4 leave with one of the officers in a white shirt toward 5th Avenue.

The investigation utilized several BWC videos to determine the existence and the sequence of the command to clear the street in order to identify the officer who provides the instruction. PO

Torres' BWC, located in IA#115, at 2:34, shows an officer in a white shirt wearing a shield of an inspector step in front of the line of officers at 7 West 29th Street and say, "Everybody, everyone on this street is being arrested for unlawful assembly. Let's make arrests now! Let's go," and the line of officers move forward split in two: one going eastwards toward 5th Avenue and the protestors who went that way and one going westward toward Broadway with those protestors (**BR 07**). PO Ciccolella's BWC, in IA#105, shows the same moment at 03:28 (**BR 06**). PO Mottola's BWC, in IA#104, at 03:45 shows that Chief Pichardo, identified by Captain Ronald Ramos of SRG-4 in his CCRB interview, tells the Inspector, "Go!" and the Inspector then makes the aforementioned command (**BR 05**).

PO Diaz's BWC in IA #118 does not capture the Inspector giving the order, but it shows the officers moving the Broadway-bound group of protestors (**BR 08**). At 2:06, the line of officers marches forward to the protestors. Officers shout "Move," and "Get out of the street!" PO Diaz stands on the other side of the street across from the officers and the protestors. At 2:15, the sound of batons hitting a road barrier can be heard. The protestors run toward Broadway while § 87(2)(b) and § 87(2)(b) can be seen walking. No officer is seen hitting or shoving the protestors in the Broadway group with their batons. By 02:27, the group and the officers are out of the line of sight for PO Diaz's camera.

From the videos provided by § 87(2)(b) the investigation was able to place PO Boria and PO Strauch at the location within the line of officers standing in the parking lot (**BR 09-10**). In his CCRB interview, PO Boria stated that he was in the Mobile Field Force that was called to West 29th Street to provide assistance with arrests (**BR 13**). The officers stood in a line for several minutes while protestors stood in the street. PO Boria could not remember who gave an order to begin effecting arrests but noted that he went east toward 5th Avenue and not toward Broadway. He arrested one individual and did not ever recall interacting with anyone matching the description of § 87(2)(b) or § 87(2)(b). PO Boria's BWC footage confirms that he did not pursue the group where § 87(2)(b) and § 87(2)(b) were and instead went toward 5th Avenue (**BR 14**). PO Strauch provided a consistent statement with PO Boria's (**BR 15**). Similarly, PO Strauch did not know who provided the order to clear the street. PO Strauch erroneously believed that he pursued the protestors westward onto Broadway, however, his BWC footage shows that he did not interact with the group heading to Broadway and instead went toward 5th Avenue (**BR 04**).

From the police radio communications for NYPD Event D20060118186, generated at the location of Broadway and West 29th Street as a call to assist officers (**BR 15**), Inspector Richard Avignone of the Traffic Enforcement Division can be heard saying that he will loop around and "get it" when told that there are protestors trying to move along Broadway and 5th Avenue between West 28th and 29th Street. However, in his CCRB interview, Insp. Avignone clarified he was in charge of traffic that day and most likely meant that he would divert vehicular traffic (**BR 16**). He clarified that he did not interact with protestors on June 1, 2020 and did not recognize the location nor any of the officers shown in the BWC footage.

From the obtained BWC footage (**BR 06, 08**), the investigation identified PO Ciccolella and PO Diaz as possible witnesses of the interaction with the group of protestors who went to Broadway and as such were the victims of the allegations made by § 87(2)(b) and § 87(2)(b).

In his CCRB interview, PO Ciccolella stated that the Mobile Field Force was summoned to the location over the radio to provide security while arrests were being effected (**BR 18**). He noted that while they were at the location, approximately 50 protestors stood in the street and shouted anti-police slogans while officers behind the line were finishing up effecting arrests made prior to Mobile Field Force's arrival. He did not know the other commands present at the location or within Mobile Field Force and stated that it was a mixed unit. After several minutes of waiting, a commanding officer who was not familiar to PO Ciccolella, instructed the officers to clear the street and arrest the protestors still in the street. PO Ciccolella believed that this was due to disorderly

conduct since the protestors were in the street and blocking traffic. PO Ciccolella did not hear any officers make the discourteous statements alleged by § 87(2)(b) and § 87(2)(b). He did not see officers hit or shove protestors with their batons either. PO Ciccolella then also went toward 5th Avenue to assist with arrests there. He did not go toward Broadway. His BWC footage confirms this statement (**BR 06**).

§ 87(2)(g)

He was the operator for Captain Ramos. PO Diaz heard the commanding officer give the instruction to clear the block, but he did not know the identity of this officer nor the command of the officer. PO Diaz saw the officers in the line begin to march toward the protestors and tell them to move but did not hear any discourteous language. PO Diaz did not assist with clearing the block because he had to remain near Capt. Ramos' vehicle. PO Diaz did not see any officer shove any protestor with their batons. He saw the protestors leave the street. His BWC confirms his statement (**BR 08**).

In his CCRB interview, Captain Ramos stated that once he arrived at the location, he did not leave the parking lot while officers cleared the street because he was supervising the transportation of the arrested individuals in the parking lot (**BR 20**). He did not know all the commands of the officers present and only knew his fellow SRG officers. He noted that Insp. Andrew Hillery of Strategic Response Group was at the location but did not recall the Inspector's actions; additionally, he stated that the unknown inspector was not Insp. Hillery. This is confirmed by the fact that Insp. Hillery is shown in one of the unrelated BWC videos, located in IA#131 2at the 00:00 mark, and is clearly not the inspector who gives the order (**BR 71**). Captain Ramos did not hear any officers use discourteous language when they were clearing the street nor did he see them use batons to push the protestors. Captain Ramos stated that because he stayed in the parking lot, he did not participate in any of the alleged actions either. When shown the relevant BWC footage, Captain Ramos did not recognize the Inspector who instructs the officers to clear the street. He recognized Chief Pichardo in the footage and identified him for the investigation.

The investigation was unable to interview Chief Pichardo because he retired from the NYPD on December 13, 2020 (**BR 21**).

§ 87(2)(g)

Among the commands listed in the roster are: SRG 1-5, Precincts 1, 7, 10, 14, 15, 18, 19, 20, 22, 23, 24, 25, 28, 34, 40, 42, 43, 44, 45, 46, 47, 49, 50, 52, 55, 52, 60, 61, 62, 63, 66, 67, 70, 71, 72, 73, 75, 76, 77, 78, 79, 81, 83, 84, 88, 90, 100, 101, 102, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 121, 122, 123, Transit Districts 1-3, 11-12, 20, 30, 33, 34, Disorder Control Unit, Counter Terrorism Division, Critical Response Command, Police Service Area(s) 1, 2, 4, 5-9, Patrol Borough Bronx (163), Anti-Terrorism Unit, Transit Bureau Manhattan Task Force (**BR 28-62**). There are no Inspectors or Chiefs listed in the rosters. There is no location listed for the Mobile Field Force aside from Randall's Island. Patrol Borough Manhattan South did not have any Detail Rosters, Zone Maps, Detail Memoranda, nor Post-Event Memoranda for the protest (**BR 69**). The Roll Calls from the 13th and 14th Precincts do not provide any information to help identify any of the possible officers at the location nor the Inspector (**BR 63-64**). The Resource Recap Log for the 14th Precinct only has the previously mentioned Event D20060118186 with Patrol Sector A responding with a disposition of "non-crime corrected." (**BR 65**). Thus, from the available police documents and § 87(2)(b)s and § 87(2)(b) descriptors of uniformed officers that are not specific, the investigation is unable to determine any specific officer in the Broadway-bound group.

Allegations D and H are pled against Chief Pichardo because he was the ranking-officer at the scene and provided the command to the officers that led to the allegations in this case.

Allegations A-C and E-G are pled against officers as a group because § 87(2)(b) and § 87(2)(b) did not make allegations against discrete officers who could be individually identified and made subjects of the investigation, even if unidentified.

§ 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been parties (**BR 22, 23**).
- Chief Pichardo has since retired from the NYPD, therefore the investigation was unable to see how long he has been a member of service (**BR 21**). However, during his tenure as an officer he had been a subject in one other CCRB complaint with one allegation that was not substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of September 14, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (**BR 70**).
- § 87(2)(b)

Squad: 3

Investigator: Michael Miskovski
Signature

Inv. Michael Miskovski
Print Title & Name

09/15/2021
Date

Squad Leader: Olga Golub
Signature

IM Olga Golub
Print Title & Name

09/15/2021
Date

CCRB Case # 202003950

Reviewer:

Signature

Print Title & Name

Date